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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,113	03/06/2001	John C. Yundt-Pacheco	HEMA.71475	2746

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EXAMINER

THAI, HANH B

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 06/11/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,113

Applicant(s)

YUNDT-PACHECO, JOHN C.

Examiner

Hanh B Thai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the Amendment dated 4/30/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

This is in response to the Amendment dated April 30, 2003.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over French (U. S. Patent no. 5,437,024) in view of Margery et al. (U. S. Patent no. 6,055,487).

1. Regarding claim 1, French discloses a computer system (5, Fig. 2) having a laboratory information system application program (15, Fig. 2), an operating system (10, Fig.2) and a printer driver (76, Fig. 2), a method for formatting data from a group of laboratory instruments (15a-c, Fig. 2), the method comprising:

- transferring the data from the laboratory information system application program, to an operating system for printing (see col. 20. lines 43-52 and 65-67, French);
- transferring the data, by the operating system, to the printer driver (see col. 12, line 57 to col. 13, line 9 and lines 19-24, French) ;
- formatting the data, by the printer driver, into a format required by an external monitoring facility (see col. 11, lines 58-67, French); and

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- storing the formatted data in a file for extraction by the external monitoring facility (see col. 20, lines 31-34, French).

French, however, does not explicitly disclose obtaining data indicative of outputs of the group of laboratory. Margery, on the other hand, discloses this limitation (see col. 4, lines 45-52 and col. 10, lines 10-15, Margery). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify French to include the indicating of the data outputs. The motivation of doing so would have been to trouble shoot instrument errors from a remote site (see col. 10, lines 17-18, Margery).

2. Regarding claim 2, French discloses a computer system (5, Fig. 2) having a laboratory information system application program (15, Fig. 2), an operating system (10, Fig. 2), a printer driver (76, Fig. 2) and a port monitor (70, Fig. 2), a method for formatting data from a group of laboratory instruments, the method comprising:

- transferring the data, by the laboratory information system application program, to an operating system for printing (see col. 20, lines 43-52 and 65-67, French);
- transferring the data from the operating system to the printer driver (see col. 12, line 57 to col. 13, line 9 and lines 19-24, French);
- transferring the data from the printer driver to the port monitor (see col. 9, lines 56-62 and col. 10, lines 34-44, French);
- formatting of the data, by the port monitor, into a format required by an external monitoring facility (see col. 11, lines 58-67, French); and

- storing the formatted data in a file for extraction by the external monitoring facility
(see col. 20, lines 31-34, French).

French, however, does not explicitly disclose obtaining data indicative of outputs of the group of laboratory instruments. Margery, on the other hand, discloses this limitation (see col. 4, lines 45-52 and col. 10, lines 10-15, Margery). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify French to include the indicating of the data outputs. The motivation of doing so would have been to allow the user to trouble shoot instrument errors from a remote site (see col. 10, lines 17-18, Margery).

3. Regarding claims 3 and 4, French discloses a system for formatting laboratory instrument output data, the system comprising:

- an operating system (see col. 16, lines 10-14) operable to run the laboratory information system application program and to provide centralized printing; and
- a printer driver for receiving data to be printed and formatting the data according to a predetermined format (see col. 11, lines 41-46 and col. 13, lines 35-45, French).

French, however, does not explicitly disclose receiving data outputs from one or more laboratory instruments. Margery, on the other hand, discloses this limitation (see col. 4, lines 45-52 and col. 10, lines 10-15, Margery). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify French to include the receiving data outputs from laboratory instruments. The motivation of doing so would

have been to allow the user to trouble shoot instrument errors from a remote site (see col. 10, lines 17-18, Margery).

Response to Arguments

Applicant argues, the combination of the teaching in French and Margery is improper (response 4/30/03, page 6) because French is an automatic system, whereas Margery is a manual system. The examiner respectfully points out that, as provided in the previous action, only a portion of Margery 's system would have been used in the combination of French/Margery. Furthermore, Margery is only used as a secondary teaching to establish that it was well known and common practice in the art to provide the output data from the laboratory instruments because it would allow trouble shoot instruments from remote sites (see col. 10, lines 17-18, Margery).

Applicant argues, it is improper to combine references (French and Margery) where "the references teach away from their combination". As pointed out above, the obvious combination of French/Margery does not entail a total combination of the systems, but a selective, obvious motivation as set forth in the previous action.

Applicant argues, French reference does not disclose "the step of storing a data file ..for extraction". The examiner respectfully points out that French's reference teach "receipt of data" (see col.15, lines 54-56, French), the data stream is saved in a file and the data file is extracted to send to the printer (see col. 20, lines 45-50, French).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh B Thai whose telephone number is 703-305-4883. The examiner can normally be reached on 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-9099 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Hanh Thai ~~WT~~
Art Unit 2171
June 9, 2003


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100